

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of
Halliburton Company :

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of
Corporation Franchise Tax :
under Article 9A of the Tax Law
for the Years 1971, 1972 & 1973. :

AFFIDAVIT OF MAILING

State of New York
County of Albany

Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 31st day of October, 1980, he served the within notice of Decision by certified mail upon Halliburton Company, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Halliburton Company
1015 Bois D'Arc
Duncan, OK 73533

and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
31st day of October, 1980.

Deborah A Bank

J. Vredenburg

STATE OF NEW YORK
STATE TAX COMMISSION
ALBANY, NEW YORK 12227

October 31, 1980

Halliburton Company
1015 Bois D'Arc
Duncan, OK 73533

Gentlemen:

Please take notice of the Decision of the State Tax Commission enclosed herewith.

You have now exhausted your right of review at the administrative level. Pursuant to section(s) 1090 of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within 4 months from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to:

NYS Dept. Taxation and Finance
Deputy Commissioner and Counsel
Albany, New York 12227
Phone # (518) 457-6240

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
HALLIBURTON COMPANY : DECISION
for Redetermination of a Deficiency of :
Franchise Tax on Business Corporations under :
Article 9-A of the Tax Law for the Years 1971 :
through 1973 and for Redetermination of a :
License Fee under Article 9 of the Tax Law for :
the Year 1973. :
:

Petitioner, Halliburton Company, 1015 Bois D'Arc, Duncan, Oklahoma 73533, filed a petition for redetermination of a deficiency of franchise tax on business corporations under Article 9A of the Tax Law for the years 1971 through 1973 and for redetermination of a license fee under Article 9 of the Tax Law for the year 1973 (File No. 16739).

By a letter dated June 2, 1978, petitioner waived a formal hearing and requested that this matter be submitted to the State Tax Commission for a decision based on the entire record contained in the file.

ISSUES

- I. Whether the notices of deficiency for 1971 and 1972 were barred by the statute of limitations.
- II. Whether the Notice of Deficiency 1973 was issued timely.
- III. Whether the additional tax and license fee for 1973, based on an increase in subsidiary capital allocated to New York, was proper.
- IV. Whether petitioner may be permitted to file combined reports retroactively, pursuant to section 210.8 of the Tax Law.

FINDINGS OF FACT

1. Petitioner, the Halliburton Company (hereinafter "the Company"), is primarily an operating company conducting its business through various divisions

and subsidiaries. It performs specialized services relating to drilling and producing oil and gas wells for producers. Engineering and construction services are also provided to the oil and gas industry, pulp and paper industry, and government agencies engaged in the construction of highways and mass production systems. Petitioner also manufactures a variety of tools and equipment used by the oil, gas and construction industries. All of the Company's plants are located in the southern states and in foreign countries. The Company had three subsidiaries doing business in New York State, to wit, Horn Construction Co., Inc., Ebasco Services, Inc. and Vernon Graphs, Inc. The latter two subsidiaries were acquired in January of 1973.

2. As a result of a field audit of the Company for 1971, 1972 and 1973, the Corporation Tax Bureau determined that the Company failed to report allocated subsidiary capital to New York. It was also determined that the subsidiaries operating in New York were autonomous. A recomputation of the license fee disclosed an additional fee due of \$7,394.06 for 1973, primarily due to the increase in subsidiary capital allocated to New York.

3. The Company filed franchise tax reports for the years ending December 31, 1971, December 31, 1972 and December 31, 1973, on or about March 15, 1972, March 15, 1973 and March 15, 1974, respectively.

4. The Company executed consents with respect to the year ending December 31, 1971, which extended the period within which to issue an assessment for said year to March 15, 1976.

5. Notices of deficiency for the years in issue were mailed to the Company on March 30, 1976, imposing additional tax as follows:

	<u>1971</u>	<u>1972</u>	<u>1973</u>
Franchise Tax	\$2,888.19	\$ 3,442.68	\$ 4,666.14
Subsidiary Capital Tax	1,007.95	12,095.36	46,209.36
License Fee	<u>-</u>	<u>-</u>	<u>7,427.00</u>
Total Tax Assessed	\$3,896.14	\$15,538.04	\$58,302.50
Franchise Tax paid with Original Return	2,231.61	2,473.89	-
License Fee previously paid	<u>-</u>	<u>-</u>	<u>32.94</u>
Deficiency	\$1,664.53	\$13,064.15	\$55,239.16

The Company timely filed a petition with respect to the aforesaid notices of deficiency.

6. In its perfected petition, the Company pleaded the statute of limitations as a bar to the notices of deficiency for the years in issue. In its answer, the Department admitted that only 1971 and 1972 were barred by the three-year statute of limitations.

7. Petitioner contends that the tax on allocated subsidiary capital was inequitable when compared with the income allocated to New York. Petitioner requested that it be permitted to file a combined return retroactively, or that it be allowed to include all of the subsidiary income in entire net income allocated to New York, with the tax on subsidiary capital to be eliminated. It further contends that the tax on subsidiary capital is unconstitutional.

CONCLUSIONS OF LAW

A. That the notices of deficiency for the years ended December 31, 1971 and December 31, 1972 were not issued within three years after the returns were filed for said years, as required by section 1083(a) of the Tax Law; thus

...the ... of the ...

...the ... of the ...

...the ... of the ...

...the ... of the ...

...the ... of the ...

...the ... of the ...

...the ... of the ...

...the ... of the ...

...the ... of the ...

...the ... of the ...

...

...the ... of the ...

...the ... of the ...

...the ... of the ...

...

...the ... of the ...

...the ... of the ...

...the ... of the ...

...the ... of the ...

...the ... of the ...

...the ... of the ...

APPENDIX

...the ... of the ...

...the ... of the ...

...the ... of the ...

said notices of deficiency were not timely.

B. That the Notice of Deficiency for the year ended December 31, 1973 was issued within the three-year statutory time limit established by section 1083(a) of the Tax Law; accordingly, said Notice of Deficiency was timely.

C. That since income, gains and losses from subsidiary capital are excluded from entire net income, a separate tax measured by subsidiary capital (or the portion allocated to New York) is imposed under section 210.1 of the Tax Law (which was in effect during 1973).

D. That the request for permission to file a combined report retroactively was properly denied. Section 210.8 of the Tax Law refers only to items included in the computation of the business and investment allocation percentages.

E. That the ownership of subsidiary corporations doing business in New York subjects a parent corporation (if it reports to New York under Article 9-A) to the tax on allocated subsidiary capital, without exception and regardless of whether the subsidiary corporations are operating at a deficit.

F. That the Corporation Tax Bureau properly recomputed the license fee under section 181.1 of the Tax Law.

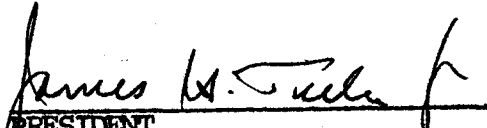
G. That the constitutionality of the laws of the State of New York is presumed at the administrative level of the State Tax Commission. There is no jurisdiction at the administrative level to declare such laws unconstitutional. Therefore, it must be presumed that the sections of the Tax Law which relate to the determination of petitioner's liability for additional franchise tax and additional license fee are constitutional.

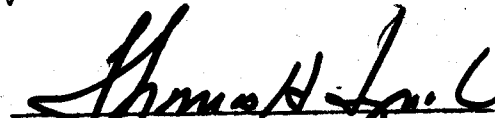
H. That the petition of Halliburton Company is granted to the extent that the deficiencies for 1971 and 1972 are hereby cancelled, but that it is in all other respects denied.


DATED: Albany, New York

STATE TAX COMMISSION

OCT 31 1980


PRESIDENT


COMMISSIONER


COMMISSIONER

U.S. DEPARTMENT OF THE ARMY
OFFICE OF THE CHIEF OF STAFF
WASHINGTON, D.C.

MEMORANDUM FOR THE CHIEF OF STAFF

OCT 3 1980

I am pleased to
acknowledge
your letter of
10/1/80.